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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.125 OF 2007

M/s.Parasmani Construction Pvt.Ltd. Petitioners
versus
State of Maharashtra and others Respondents

Ms.Pooja tidke i/by ALMT Legal for petitioners.

CORAM : A.S.OKA, J.

DATE : 05th April 2007

PC :

1. Heard learned counsel appearing for the petitioner. It is alleged in the petition that the second and third respondents have committed deliberate breach of the direction contained in paragraph no.7 of order dated 4th October 2006 in Writ Petition No.5847 of 2005. According to the petitioner, following direction contained in paragraph no.7 has been breached :-

> "So far as the construction of the third building is concerned, the respondent no.2 shall hear all the parties concerned i.e. respondent nos.4, 5 and the petitioner in the Original Side Writ Petition Lodging No.2041 of 2006 and decide whether the respondent no.4 should

> continue with the further construction on remittance of penalty charges or otherwise but in any case it must be ensured that the construction of the third building is not stalled and is completed expeditiously so that the remaining slum dwellers are rehabilitated."

2. My attention has been invited to the order dated 26th December 2006 passed by the third respondent. In the said order a finding has been recorded that certain persons have been granted allotment whose names are not included in the Annexure-II issued by the competent authority. The second respondent, therefore, directed to evict the said occupants from respective tenements. The second respondent has observed that the building permission for balance work including grant of commencement certificate for the third rehabilitation building will be subject to the compliance with the direction given to take possession of the eight rehabilitation tenements which are presently occupied by the outsiders. Thus, it cannot be said that any breach is committed by the second respondent. In any case, by no stretch of imagination it can be said that the alleged breach is wilful or deliberate.

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3. Therefore, no action can be taken under the Contempt of Courts Act, 1971. However, it will be open for the petitioner to challenge the order dated 26th December 2006 in accordance with law.

4. Subject to what is stated above, the contempt petition is disposed of.

(A.S.OKA, J.)